

## Have You Ever Been Convicted of a Crime? *Yes, No, Maybe So*

Roberta Meyers-Peebles

Many workforce development professionals advise their clients to answer job applications that ask about a criminal record by responding, "will discuss at interview." Similar guidance is given in newspaper columns and on on-line job search websites. The thinking underlying this advice is very practical. The mere appearance of a criminal record on a completed employment application can dismiss a qualified applicant's chance of even getting an interview. Moreover, what if the issue never comes up at the interview and the individual is hired? Such advice, however well intentioned, though is misguided and can do a disservice to clients.

Most employment applications pose the question about an applicant's criminal history in two parts: (1) Check [continued on page 2](#)

## Ohio Uses TANF to Fund Programs to Assist People with Criminal Records

Glenn Martin

For an innovative example of a state's utilization of Temporary Assistance to Needy Families (TANF) welfare funds to build and preserve families, one needs to look no further than a new project administered by the Ohio Department of Job and Family Services (ODJFS) in partnership with the Department of Rehabilitation and Correction. The initiative intends to assist men with conviction records to reunite with their families and help facilitate their job searches and access to other necessary services. Moreover, in an effort to maximize currently established resources, the state's one-stop system and existing community-based organizations will act as the cornerstone of this new endeavor. This exciting new program should serve as a reminder to advocates and policymakers in other states that there is an incredible amount of flexibility with TANF funds to meet the needs of parents with multiple barriers to employment, including criminal records (see *Getting to Work*, by Gwen Rubinstein, formerly of the Legal Action Center, at <http://www.hirenetwork.org/publications.html>).

Traditionally, it has been an uphill battle for advocates to have funds from TANF specifically earmarked for people with conviction records to assist in the job search process and other necessary services. While many states have restrictions on the receipt of direct TANF cash assistance for people with drug-felony convictions, there are no federal limitations on the use of TANF funds to pay for services available to those with criminal records. Many states, keeping in line with the intent of TANF to strengthen family formation, have implemented new programs to assist families in forming and reinforcing marriages by making support services available to their clients.

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yes or no as to whether you have ever been arrested or convicted, and (2) If yes, briefly explain the history. Can a job seeker just skip over the first part of the question? Is it sufficient to write “will explain in interview?”

The short answer to both questions is **no**. Job applicants must complete questions on applications accurately, fully, and truthfully. That means that job applicants are required to answer the first part of the question definitively with a “Yes” or a “No.” Failing to do so and leaving the questions blank can leave a job applicant open to being fired or overlooked for the position. The reason is that job applications are considered legal documents and failing to complete the application completely can be construed as lying or omitting material information, even if the applicant’s intentions were innocent. When that happens, employers are permitted to not hire the candidate or to fire the employee when the omission is uncovered. Furthermore, because a majority of employers conduct background checks on job applicants, the likelihood of an employer overlooking an applicant’s criminal record is small.

Employers can and do go after people who allegedly falsify job applications. In many cases, the individual may be immediately terminated, but in some cases criminal charges are filed against the employee who is found to have misrepresented information on the job application. In some industries and, particularly for government jobs, employers have the authority to prosecute individuals who misrepresent information on their job applications. In the aviation industry, the federal government has prosecuted individuals who have overtly misrepresented or who “simply” omitted material facts from their job applications.

Although, practitioners have developed different solutions for addressing the part of the job application that asks about criminal histories, job seekers must be reminded that they must check either “Yes” or “No” when asked if they have a criminal record. The job seeker should read the question carefully, understand what is being asked and what he or she is obligated to disclose to the employer. In some states, employers are not permitted to ask about arrests that did not lead to conviction. Questions about a criminal record on an employment application may only ask about

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Arizona, Michigan, New Mexico, Oklahoma, and Utah are among the states that have used TANF funds for strengthening marriage. Nationally, states and localities are developing a number of initiatives that seek to involve fathers in the lives of their children and families, but by specifically targeting this underserved population, Ohio has gone a step further with this new undertaking.

Ohio’s project aims to achieve the following objectives:

- serve incarcerated fathers and their families for up to one year before and after release;
- utilize community-based organizations to link people with convictions to workforce development and other services;
- educate correction officials about the one-stop system;
- educate the workforce and welfare systems about people with convictions and their special needs;
- help people with convictions and their families with issues surrounding reunion;
- document how many families receiving assistance have an incarcerated parent; and
- stem the tide of recidivism and advancement to higher levels of criminal activity by interceding at the community jail level.

This project is an excellent example of government collaboration and efficient utilization of existing resources. Ohio has acknowledged the efficacy of using these funds to help strengthen family ties while reducing recidivism, instead of creating more barriers for an already hard to serve population. For more information on this project, please contact Joel Potts, Senior Policy Analyst, at ODJFS at (614) 466-6283. ❖



Thanks to all of our members who dropped by the H.I.R.E. Network table at the U.S. Department of Justice National Conference on Offender Reentry in Cleveland last week. We were extremely pleased to meet so many of you in person. If you are ever in New York, feel free to give us a call. ❖

certain kinds of convictions (such as felonies) or about convictions within a certain period of time. It can be helpful to review with a client the various ways the questions about an applicant's criminal record can appear on an employment application, the appropriate way the client should respond to those questions, and provide the client with a "cheat sheet" to take with them when completing job applications.

We recognize that disclosing one's criminal record can be very uncomfortable. Like any of us, job seekers with criminal histories want the opportunity to present themselves to employers and be evaluated on their qualifications by more than what appears on paper. However, leaving an answer blank or skimming past a question without some sort of definitive answer is not exemplary of someone of "good faith."

We encourage all job seekers and workforce development professionals to remember that answering job application questions completely, directly, and honestly is not only important to obtaining a job; it is important for retaining and moving forward on a career path. ❖

## Shout Out!



H.I.R.E. wants to acknowledge the efforts of **Lynne Hansen**, Re-integration Coordinator, and the participants in the Essex County Corrections' **Women in Transition Program (WIT)** in Salisbury, MA. WIT accommodates 24 women serving time for non-violent, drug and alcohol related offenses. Participants live in a minimum-security, therapeutic community where they receive life skills/pre-release services and information on available social services. Recently, the women developed a community service project whereby they are donating handcrafted blankets and baby items to unwed teen mothers and their children in the community. Many of the women participants and recipients of the donations are victims of domestic violence and

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## Local Governments Can Encourage Employment of Their Residents with Criminal Histories

Roberta Meyers-Peeples

While federal and state governments seek ways to improve reentry and address various barriers people with criminal histories face, in some cities, local representatives have taken the initiative to protect the employment rights of qualified job seekers who have criminal histories. Some jurisdictions have enacted tax credits or other financial incentives for employers who hire local residents or disadvantaged job-seekers (see "Creating Win-Win Opportunities for Employers, Job Applicants, and Communities" in the October 2003 issue of National H.I.R.E. Network News at [www.hirenetwork.org](http://www.hirenetwork.org)). These incentives can benefit individuals with criminal records. New York City has a local law that protects individuals with arrest and conviction histories from employment discrimination. We recently learned that another jurisdiction – Cleveland - has pending legislation that seeks to create more employment opportunities for city residents who have criminal histories.

On January 28, 2004, Cleveland Council Members Roosevelt Coats, Fannie M. Lewis, and Frank G. Jackson introduced what would be the first city ordinance in the State of Ohio to provide anti-discrimination protections for people with criminal histories in the area of employment. Local ordinance number 113.04 would make it illegal for any company that contracts or subcontracts with the City of Cleveland to deny jobs to people with conviction histories without following particular standards and procedures. The legislation has two key provisions: (1) It prohibits contractors and subcontractors from having blanket policies of denying individuals with criminal records jobs, and (2) When considering the criminal record of job applicants contractors and subcontractors must determine if one or more of a person's convictions has a relationship to the specific employment sought. Council members are currently holding public hearings to discuss the implications of

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both groups have become empowered by their interactions with one another. Lynne Hansen is responsible for coordinating the groups, as well as obtaining donated supplies for the craft projects. Thanks to Lynne and the women of WIT for sharing and caring. ❖



### ***H.I.R.E. on the Hill***

*Alexa Eggleston and Gabrielle de la Gueronniere*

#### **Legislation to Reauthorize Work Opportunity Tax Credit Stuck in Conference; No Movement Expected Before Target Adjournment Date**

Legislation to reauthorize the Work Opportunity Tax Credit, a tax credit available to employers who hire from eight different groups of individuals, including certain individuals with felony records, is not expected to be approved before Congressional members return home to their Districts to campaign for the upcoming November elections. The credit expired on December 31<sup>st</sup> of 2003.

The tax credit is included in the American Jobs Creation Act of 2004, H.R. 4520, in the House and S.1637 in the Senate. Although both the House of Representatives and the Senate approved their versions of legislation, it has been held up in the conference negotiation process where several key differences between the House and the Senate bills need to be reconciled. While it is unlikely that Congress can finish the legislation before their target adjournment date of October 8<sup>th</sup> it is possible that they could finish it when they return in November after the elections for a lame duck session.

#### **Another Short-Term Extension Likely for Welfare/TANF Program**

The current extension under which the TANF/Welfare program is operating is set to expire on Thursday, September 30<sup>th</sup>. The House, however, has approved legislation that would allow the program to continue to operate under a six-month short-term extension. The Senate is expected to take similar action, despite efforts from some advocacy groups to push for a long-term multi-year extension. Although significant progress has been made to pass legislation to

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the ordinance, but Councilman Coats reported in his *Ward 10 News and Views Summer 2004* newsletter that he “expects a vote on the legislation by the end of the year.”

New York City’s Human Rights Law (Administrative Code of the City of New York §§ 8-107 (10)- (11)) prohibits public and private employers, employment agencies, occupational licensing agencies, and labor organizations from discriminating against individuals with criminal histories. Its three key provisions include: (1) “Employers” are not permitted to ask about or consider arrests that did not lead to conviction, (2) It is unlawful discriminatory practice for any person to deny any license or permit or employment to any person by reason of his or her having been convicted of one or more criminal offenses, and (3) It is unlawful discriminatory practice to disqualify someone with a conviction record by reason of a finding of lack of “good moral character” which is based on his or her having been convicted of one or more criminal offenses. The city law provides additional support for New York State’s Correction Law Article 23-A (§§ 750-755), which establishes employment standards and guidance to employers when considering an applicant’s conviction history. The state law identifies a set of factors employers must consider when determining whether a job applicant’s conviction history is job-related or whether that person would, because of that history, pose an unreasonable risk to the public or to property. Factors include New York State’s public policy of encouraging the licensing and employment of people with criminal histories; the relationship between the applicant’s criminal history and the job duties; the time since the conviction(s); the seriousness of the offense(s); the employer’s legitimate interest in protecting property or the general public, and any evidence of rehabilitation that the applicant presents.

Every city has a stake in ensuring that all of its residents, including people who have criminal histories, have viable employment opportunities. These assurances create safer and economically sound communities. If your city has taken steps to create legislation and/or other policies that support and encourage the employment of people with criminal

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reauthorize the program this session, the full Senate has still not approved a bill. It is therefore very unlikely that a reauthorizing bill will be approved by both the House and Senate and signed into law before the end of the current legislative session.

**House Judiciary Committee Approves the “Mentally Ill Offender Treatment and Crime Reduction Act of 2003”; Committee Expected to Review Second Criminal Justice Bill, “Defending America’s Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2004”**

Two pieces of legislation have recently been under consideration in Congress that, if passed, would have a significant impact on the criminal justice system nationwide.

The full House Judiciary Committee recently marked-up (reviewed) and approved S. 1194, the “*Mentally Ill Offender Treatment and Crime Reduction Act of 2003*.”

- S. 1194 would provide resources to states and local areas to foster collaborations within the criminal and juvenile justice system for nonviolent adults or juveniles who have a mental illness or co-occurring mental illness and substance abuse disorder and face criminal charges that are the product of the person’s illness.

Funds could be used for: creating or expanding mental health courts or other court-based programs for such individuals; programs that offer specialized training to criminal or juvenile justice agency officers and employees and mental health personnel to be able to identify and respond appropriately to individuals with mental illnesses; programs that support cooperative efforts by criminal, juvenile justice, and mental health agencies to promote public safety by offering mental health and substance abuse treatment services; and programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

It is unclear whether S. 1194, which passed the full Senate in October of 2003, will be scheduled for a vote on the House floor before the end of this legislative session.

In addition, the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security recently reviewed and approved H.R. 4547, “*Defending America’s*

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records, please let us know so we share that information with others. Please contact Roberta Meyers-Peebles at [rampeebles@hirenetwork.org](mailto:rampeebles@hirenetwork.org). ❖



***Hot Off the Press:  
Recent Reports***

**50-State Report on Re-Enfranchisement: A Guide to Restoring Your Right to Vote**, by the Lawyers Committee for Civil Rights Under Law (2004). This is a comprehensive state-based guide to disenfranchisement laws and restoration procedures. It provides data and procedures for each state on categories and rates of disenfranchisement, legal statutes, and restoration procedures. To view this report, go to <http://rs6.net/tn.jsp?t=t7aqu7n6.0.wxbyu7n6.fed4i7n6.281&p=http%3A%2F%2Fwww.lawyerscomm.org%2Fep04%2F50stateguide.html>

**The Front Line: Building Programs that Recognize Families' Role in Reentry**, by Mike Bobbitt and Marta Nelson of the Vera Institute of Justice (September 2004). People leaving prison often turn to their families for assistance. These families become the "front line" of reentry, providing people coming home with critical emotional and material support. But criminal justice systems have only recently begun to engage families in the transition. This *Issue in Brief* examines the trend towards providing family-focused reentry programming in prison and in the community, highlights ways that jurisdictions can and are structuring such efforts, and addresses the challenges involved. As an example of programming that engages family in reentry, the paper discusses the family reintegration program of Project Greenlight, a prison-based pilot program operated by Vera in partnership with the New York State Department of Correctional Services and the New York State Division of Parole. To read this report, go to [http://www.vera.org/publications/publications\\_5.asp?publication\\_id=249](http://www.vera.org/publications/publications_5.asp?publication_id=249).

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*Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2004.”*

- H.R. 4547 would increase existing penalties for drug sales and possession outside of drug treatment facilities, as well as a wide range of other public facilities, by imposing mandatory minimum sentences, including lifetime sentences for certain drug related and violent crimes.

H.R. 4547 was introduced in June by House Judiciary Chairman Sensenbrenner (R-WI) and is co-sponsored by Representatives John Carter (R-TX), Howard Coble (R-NC), Tom Feeney (R-FL) Elton Gallegly, (R-CA), Mark Green (R-WI), and Lamar Smith (R-TX).

Although the House Judiciary Committee is set to mark-up H.R. 4547 in full committee, it is unclear whether this will occur before the end of the legislative session.

For more information on these pieces of legislation as well as other legislative matters pending before Congress please visit [www.thomas.loc.gov](http://www.thomas.loc.gov) where you can view the full text of the bills as well as follow their progression through the legislative process. ❖

**Correction to Hot Off the Press –September 2004**

**Edition (page 8):**

The correct link for the report **Current Strategies for Reducing Recidivism**

<http://www.impactresearch.org/documents/recidivismfullreport.pdf>. ❖



**FUNDING OPPORTUNITIES!**



**U.S. Department of Labor Employment and Training Administration's High Growth Job Training Initiative:** The Employment and Training Administration announces the availability of approximately \$10 million in demonstration grant funds to address labor shortages, innovative training strategies, and other workforce challenges in the healthcare and biotechnology industries as identified through the President's High Growth Job Training Initiative. Grant funds should be used to develop and implement innovative solutions to workforce challenges identified by the healthcare or biotechnology industries. Each solution should take place in the context of a strategic partnership between the public workforce system, business and industry representatives, and education and training providers such as community colleges. Individual awards will fall within the range of \$750,000 to \$1 million. *The deadline is November 2, 2004.* For more information, go to <http://www.doleta.gov/sga/sga/04-1sga.pdf>❖

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## ***Upcoming Conferences of Interest***

**Oct. 4-6, 2004**

**The Workplace CA**

**“The Mind of the Parolee”**

Norwalk, CA

Contact: <http://www.TheMindOfTheParolee.com>

Tel: 714-547-4734

Email: [jjanda@theworkplaceca.com](mailto:jjanda@theworkplaceca.com)

**Oct. 12, 2004**

**2004 Opportunity Conference**

**U.S. Department of Labor**

**Omni Shoreham Hotel**

Washington, DC

Contact:

<http://www.opportunityconference.gov/register.asp>

Note: Registration closes October 5, 2004

**Oct. 13-15, 2004**

**The Enterprise Foundation Annual Network Conference:**

**“Building Together Partnership of successful Community Development”**

Marriot Marquis

New York City, NY

Contact:

[http://www.attendeeinteractive.com/shows/ent0401/index.cfm?fuseaction=Custom.reg\\_home](http://www.attendeeinteractive.com/shows/ent0401/index.cfm?fuseaction=Custom.reg_home)

**Oct. 15-17, 2004**

**Transition of Prisoners, Inc.**

**“Ministry in Motion: A National Prison Aftercare Conference”**

Marriott Detroit Renaissance Center

Detroit, MI

Contact: Latitia Watkins

Tel: 313-875-3883 Ext. 27

<http://www.topinc.net>

**Oct. 19, 2004**

**White House Faith-Based and Community Initiatives Conference**

James L. Knight International Center

Miami, FL

Contact: <http://www.whitehouse.gov/government/fbci/>

Note: Registration closes October 11, 2004

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**Nov. 8-10, 2004****Covenant Collaborative Consulting & Training Ministry  
& The Body of Christ Ministries International Church:  
“The Soul Knows No Bars: Second Annual Ecumenical  
Reentry Ministry Conference of the Interfaith  
Community--Second Chances for the Forgotten & Left  
Behind”**

The Body of Christ Ministries International Church

Stone Mountain, GA

Contact: L. Elaine S. Mbionwu, CCHP

Tel: 301-537-0119

<http://www.ccct.us/>

**Nov. 11-13, 2004****Applied Research Center:****“Race and Public Policy: A Proactive Agenda for 2005  
and Beyond”**

University of California at Berkeley

Berkeley, CA

Contact: <http://www.arc.org/rapp/rappconf2004.html>

**Feb. 13-16, 2005****American Probation and Parole Association Winter  
Training Institute:****“Riding the Wave of Innovation – Merging New Ideas  
with Evidence-Based Practices”**

Hyatt Regency Orange County

Anaheim, CA

Tel: 850-244-8204

Email: [kchappell@csg.org](mailto:kchappell@csg.org)

Information: [http://www.appa-net.org/institutes/2005\\_anaheim/promo\\_Anaheim.pdf](http://www.appa-net.org/institutes/2005_anaheim/promo_Anaheim.pdf)

**May 1-4, 2005****National Association of Workforce Development  
Professionals 16<sup>th</sup> Annual Conference:****“Riding the Workforce Wave”**

Fontainebleau Hilton Hotel

Miami Beach, FL

Contact: [www.nawdp.org](http://www.nawdp.org)

Note: Now accepting workshop proposals

**July 24-27, 2005****30<sup>th</sup> Annual American Probation and Parole Association  
Training Institute**

Marriott Marquis

New York City, NY

Contact: [http://www.appa-](http://www.appa-net.org/Training%20and%20Tech%20Assistance/callfor1.htm)

[net.org/Training%20and%20Tech%20Assistance/callfor1.htm](http://www.appa-net.org/Training%20and%20Tech%20Assistance/callfor1.htm)

Note: Now accepting workshop proposals